

### **Remarks/Arguments**

Reconsideration of this application is requested.

#### **Request for Continued Examination**

A Notice of Appeal was filed in this application on December 24, 2008, in response to the final Office Action mailed on June 30, 2008. The deadline for filing an Appeal Brief is therefore February 24, 2009. Rather than filing an Appeal Brief, applicant has opted to file a request for continued examination (RCE), which is enclosed herewith.

#### **Claim Status**

Claims 1-3 are pending and are amended.

#### **Claim Rejections – 35 USC 103**

Claims 1-3 are rejected under 35 USC 103(a) as obvious over Proctor (US 6,925,070) in view of Gitlin (US 6,018,528).

In response, applicant traverses the rejections and amends claims 1-3 to more clearly distinguish over Proctor and Gitlin. In particular, claims 1-3 are amended to recite that all preamble signals are transmitted nonsimultaneously for a plurality of frequency channels. Support for this amendment is found, for example, in FIG. 2 of applicant's specification (see preamble signals 101).

Page 3 of the final Office Action of June 30 acknowledges that Proctor does not specifically disclose transmitting non-simultaneously the signal for the plurality of the frequency channels for switching the frequency channels from the base station. Gitlin does not remedy this deficiency, and in particular does not disclose or suggest the technical idea of transmitting nonsimultaneously all data for a plurality of frequencies. As is indicated by its title ("System and Method for Optimizing Spectral Efficiency using Time-Frequency-Code Slicing"), Gitlin is directed to optimization of spectral efficiency. To configure Gitlin to transmit nonsimultaneously all data for a plurality of frequencies would be contrary to Gitlin's object of optimizing spectral efficiency. Thus, Gitlin does not disclose or

suggest nonsimultaneous transmission of all data for a plurality of frequency, and therefore does not remedy the deficiencies of Proctor.


Since Proctor and Gitlin do not disclose or suggest each and every feature of claims 1-3, claims 1-3 are not obvious over Proctor in view of Gitlin, and the rejections under 35 USC 103 of claims 1-3 should be withdrawn.

### **Conclusion**

This application is now in condition for allowance. The Examiner is invited to contact the undersigned to resolve any issues that remain after consideration and entry of this amendment. Any fees due with this response may be charged to our Deposit Account No. 50-1314.

Respectfully submitted,  
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Date: February 24, 2009

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